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# Outdoor Dining Policy

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## **Purpose**

The purpose of this policy is to set out the circumstances and conditions under which Council will issue approvals for outdoor dining on the public footway and other similar public domain areas.

## **Background**

A well-managed footway promotes both equitable access and supports local businesses by creating places and streets that are amenable and attractive to all visitors.

In consultation with a range of stakeholders Council has developed policies and strategies to encourage city businesses, create great retail experiences for all residents and visitors, and encourage social, cultural and economic amenity and vitality.

Council must manage the footway and other public spaces to provide safe and equal access for all people around the City. This includes pedestrians with a pram or mobility aid, or who are blind, have low vision or use a wheel chair and require a clear path of travel to be maintained at all times. Council recognises that a clear path of travel is a necessity. Stakeholders who are blind or have low vision prefer that the location for the clear path of travel is along the building side of the footway to allow for best-practice in safe and dignified wayfinding. This policy reinforces the requirement that a clear path of travel be maintained at all times, while also allowing opportunities for beneficial uses on the public footway.

## **Scope**

This policy applies to the business use of the footway in the City of Sydney Local Government Area for outdoor dining.

It was adopted by the Council and commenced operation on 17 October 2016.

## Definitions

Term	Meaning
<b>Clear path of travel</b>	<p>The area of the footway maintained for safe and equitable pedestrian circulation which is free from obstructions and assists in wayfinding and navigation. Also referred to as the continuous accessible path of travel, which is defined by the Australian Human Rights Commission as:</p> <p><i>An uninterrupted route to and within an area providing access to all features, services and facilities. It should not incorporate any step, stairway, turnstile, revolving door, escalator, hazard or other obstacle or impediment which would prevent it from being safely negotiated by people with disability.</i></p>
<b>Exempt development</b>	<p>Development which does not need development consent under the Environmental Planning and Assessment Act 1979, but which may still need some other approval. At the time of adoption, State Environmental Planning Policy (Exempt and Complying Codes) 2008 makes footway dining exempt development if it is:</p> <ul style="list-style-type: none"> <li>(a) not associated with a pub or a small bar, and</li> <li>(b) carried out in accordance with an approval granted under section 125 of the Roads Act 1993, including in accordance with any hours of operation to which the approval is subject, and</li> <li>(c) carried out in accordance with any approval granted under section 68 of the Local Government Act 1993.</li> </ul>
<b>Outdoor dining</b>	<p>Dining on the public footway, associated with an approved restaurant. Also sometimes referred to as footway dining or a footway restaurant.</p>
<b>Public footway</b>	<p>That part of a road that is set aside or formed as a path or way for pedestrian traffic, whether or not it may also be used by bicycle traffic.</p>
<b>Restaurant</b>	<p>Defined in the Roads Act 1993 as “premises in which food is regularly supplied on sale to the public for consumption on the premises”. It includes cafes, pubs and take away food and drink premises where food is also regularly served for consumption at indoor seating on the premises.</p>

## Policy statement

To promote public access and well managed outdoor dining on the footway, Council will:

- value the contribution that well-managed businesses make to the character of the City's streets;
- maintain the pedestrian thoroughfare as the primary purpose of the footway;
- promote accessibility on the footway by maintaining a consistent and predictable clear path of travel for all users;
- continue to work with all stakeholders towards best practice wayfinding on the City's footways;
- manage neighbourhood amenity through minimising additional noise, visual, and other impacts;
- encourage appropriate outdoor dining in the Cenotaph block of Martin Place, and ensure that the views of the NSW Returned Services League are considered in the assessment of applications;
- promote activation of Llanckelly Place by exempting it from Council 'footway freeze' of December 2012;
- consider the appropriateness of applications for approval against Council's adopted guidelines;
- monitor compliance with approvals, and undertake enforcement action when appropriate;
- grant approvals for up to a maximum of 7 years under the *Roads Act 1993*;
- revoke approvals where there are continuing unresolved substantiated breaches of the approval; and
- charge a fee for use of the footway as set out in Council's Fees and Charges.

## Approvals

In order for a premises to have outdoor dining on the footway, NSW Government legislation sets out that the following approvals are required:

- all outdoor dining on the footway requires an approval under the *Roads Act 1993*;
- outdoor dining that is not exempt development will require a development consent under the *Environmental Planning and Assessment Act 1979*;
- outdoor dining that is on Crown land requires an approval under the *Crown Lands Act 1989*; and
- outdoor dining on community land, such as a park or reserve, requires an approval under the *Local Government Act 1993*.

## Responsibilities

Responsibility for drafting and updating this policy lies with the Strategic Planning and Urban Design unit at the City of Sydney.

## Consultation

This policy has been developed following consultation with:

- Council's Inclusion (Disability) Advisory Panel;
- Vision Australia, Guide Dogs NSW and other stakeholders who represent people who are blind or have low vision;
- Council's Retail Advisory Panel; and
- local chambers of commerce, liquor accords and other business groups.

## Guidelines

*Guidelines for outdoor dining* have been prepared to implement the policy objectives.

## References

### Laws and standards

- Crown Lands Act 1989
- Disability Discrimination Act 1992 (Cth)
- Environmental Planning and Assessment Act 1979
- Local Government Act 1993
- Roads Act 1993
- State Environmental Planning Policy (Exempt and Complying Codes) 2008

### Policies, procedures and guidelines

- Guidelines for outdoor dining
- City of Sydney Inclusion Disability Action Plan 2014-2017
- City of Sydney Retail Action Plan 2013
- City of Sydney Tourism Action Plan 2013
- Open Sydney – Strategy and Action Plan 2013-2030

## Approval

Council approved this policy on 17 October 2016.

## Review

Review responsibility	Next review date	TRIM reference
Strategic Planning and Urban Design	5 years after adoption	2016/602376